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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,004	07/31/2003	Thomas Hackl	037068.52641US	9537
23911	7590	11/12/2004	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			KRAMER, DEVON C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,004

Applicant(s)

HACKL, THOMAS

Examiner

Devon C Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/23/03 + 7/31/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

- 1) Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**means**" and "**said**," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

- 2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 3) Claims 1, 2, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Seto (2002/0152015).

In re claim 1, Seto provides a system capable of controlling brakes of a commercial vehicle, comprising: at least one of an adaptive distance regulation and driving speed device (figure 1) which modulates an urgency signal based upon a hazard variable (paragraph 31 and 32, step 006); an electronically controlled brake system (5)

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designed to distribute a desired amount of braking force to a friction brake system and a retarding brake (6); and wherein the electronically controlled brake system distributes the desired amount of braking force to the friction brake system and the retarding brake based upon the urgency signal. (Paragraph 31)

In re claim 2, see step 002.

In re claim 9, Seto teaches a method for controlling brakes, capable of use on a commercial vehicle, comprising: modulating an urgency signal based upon a hazard variable (S002) via at least one of an adaptive distance regulation and driving speed device (see abstract); distributing a desired amount of braking force to the friction brakes and a retarding brake as a function of the urgency signal using an electronically control brake system (s007).

In re claim 11, see the abstract.

Claim Rejections - 35 USC § 103

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 3-4, 5-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto (2002/0152015).

In re claims 3-4 and 10, Seto lacks the specific teaching of the value ranges claimed. It would be obvious to regulate the braking force and retarder force based upon the urgency to avoid an obstacle to avoid injury to the vehicle's occupants. Seto

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teaches an arrangement where it is decided what the distance to the preceding vehicle is, it is then determined if engine control can decelerate the vehicle enough to avoid a collision, if this is not the case then the friction brakes and engine is controlled in a manner to bring the vehicle to the required speed to avoid a collision and to keep a safe distance between the vehicles.

In re claims 5-6, see the abstract of Seto and element (CPU).

6) Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto (2002/0152015) in view of Wieder et al (5864285).

In re claims 7-8, Seto teaches the use of what can be considered a CAN data bus, but lacks the further control device.

Wieder et al teaches the use of a number of control devices (10, 12, 24, 30a) that are connected using a CAN data bus (14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the brake control system of Seto with the controllers and data bus as taught by Wieder et al to cut down on the amount of wiring throughout the vehicle from the various sensors to the main control unit and to cut down on the replacement costs of the single controller in case of failure.

Conclusion

7) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Seto et al, Seto, Higashimata, Yamamura et al, Kurz et al,

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Nakamura et al, and Neuhaus et al all provide systems for controlling the brakes in a motor vehicle in response to the detection of an obstacle.

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patentamt

EUROPÄISCHER RECHERCHENBERICHT

Nummer der Anmeldung
EP 03 01 6670

EINSCHLÄGIGE DOKUMENTE			
Kategorie	Kennzeichnung des Dokuments mit Angabe, soweit erforderlich, der maßgeblichen Teile	Betrifft Anspruch	KLASSIFIKATION DER ANMELDUNG (Int.Cl.7)
X	EP 0 982 173 A (EATON CORP) 1. März 2000 (2000-03-01) * Zusammenfassung; Abbildungen 1-3 * * Absätze '0003!-'0013! * * Absätze '0021!,'2330! * ---	1-4	B60K31/00
X	US 6 076 622 A (MACK WILLIAM J ET AL) 20. Juni 2000 (2000-06-20) * Zusammenfassung; Abbildungen 1-3 * * Spalte 6, Zeile 26 - Zeile 48 * * Spalte 7, Zeile 4-9 * * Spalte 7, Zeile 10-35 * ---	1-4	
A	DE 195 37 273 A (ZAHNRADFABRIK FRIEDRICHSHAFEN) 10. April 1997 (1997-04-10) * das ganze Dokument * ---	3	
A	DE 43 41 212 A (VOITH TURBO KG) 21. April 1994 (1994-04-21) * das ganze Dokument * -----	3	
			RECHERCHIERTE SACHGEBIETE (Int.Cl.7)
			B60K
Der vorliegende Recherchenbericht wurde für alle Patentansprüche erstellt			
Recherchenort MÜNCHEN		Abschlußdatum der Recherche 19. November 2003	Prüfer Geuss, H
KATEGORIE DER GENANNTEN DOKUMENTE			
X : von besonderer Bedeutung allein betrachtet Y : von besonderer Bedeutung in Verbindung mit einer anderen Veröffentlichung derselben Kategorie A : technologischer Hintergrund O : nichtschriftliche Offenbarung P : Zwischenliteratur		T : der Erfindung zugrunde liegende Theorien oder Grundsätze E : älteres Patentdokument, das jedoch erst am oder nach dem Anmeldedatum veröffentlicht worden ist D : in der Anmeldung angeführtes Dokument L : aus anderen Gründen angeführtes Dokument & : Mitglied der gleichen Patentfamilie, übereinstimmendes Dokument	